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- Of Counsel -

## **PRELIMINARY STATEMENT**

The defendant, Nicholas Cooper (“Cooper” or the “defendant”), is scheduled to be sentenced on September 18, 2013 at 2:00 pm. The Government respectfully submits this memorandum in advance of the sentencing proceeding. The parties agree that the applicable United States Sentencing Guidelines (“Guidelines” or “U.S.S.G.”) sentence is 120 months’ imprisonment (based on a total offense level of 29, a Criminal History Category of I, and a ten-year statutory mandatory minimum).

The Government respectfully requests that the Court impose a sentence of imprisonment of 120 months.

## **FACTUAL BACKGROUND**

### **I. The Defendant’s Criminal History**

As set forth in the Presentence Investigation Report dated September 11, 2013 (“PSR”), the defendant has no criminal history points. Accordingly, the defendant falls in Criminal History Category I.

### **II. The Instant Offense**

The PSR accurately describes the conduct that led to the defendant’s arrest and prosecution. The Federal Bureau of Investigation (FBI), after a long-term investigation, developed evidence that Cooper possessed and distributed child pornography. In May 2012, the FBI executed a search warrant at Cooper’s apartment in Manhattan and seized multiple laptop computers and external hard drives that belonged to Cooper. It took the FBI months to break the sophisticated encryption on the computer equipment. Once agents were able to access the data, they discovered thousands of pictures and videos containing child pornography. The FBI further discovered that the defendant had internet communications and sexual contact with a minor in

December 2009. The FBI later interviewed the minor, who disclosed that he and Cooper engaged in oral sex and that he had sent pornographic images of himself to Cooper at Cooper's direction.

### **III. The Indictment**

On January 30, 2013, a grand jury in this District handed down a three-count indictment charging Cooper with enticing a minor to engage in sexual conduct, in violation of Title 18, United States Code, Section 2422(b), transporting and distributing child pornography, in violation of Title 18, United States Code, Section 2252A(a)(1) and (a)(2)(B), and possessing child pornography, in violation of Title 18, United States Code, Section 2252A(a)(5)(B). On May 20, 2013, the defendant pled guilty to Count One pursuant to a plea agreement with the Government.

### **GOVERNMENT'S SENTENCING RECOMMENDATION**

The Government respectfully submits that the defendant's actions merit a sentence of 120 months' imprisonment, to be followed by a period of supervised release. The conduct to which the defendant pled guilty, enticing a minor to have sexual contact, is extremely serious and is of a piece with the defendant's broader possession and distribution of child pornography. The disturbing images, videos, and internet chats that the FBI located on Cooper's computers illustrate his deep involvement with child pornography—involvement that included physical contact with a minor. While the Government is certainly aware of and sensitive to Cooper's struggles with mental illness, that history does not explain the conduct in which Cooper engaged. A sentence of 120 months' imprisonment is just and proper in this case.

**CONCLUSION**

For the foregoing reasons, a sentence of 120 months' imprisonment would achieve the legitimate purposes of sentencing.

Dated: New York, New York  
September 11, 2013

Respectfully submitted,

PREET BHARARA  
United States Attorney

A handwritten signature in dark ink, appearing to be 'P. Bharara', with a horizontal line extending to the right and a small dot at the end.

By: \_\_\_\_\_  
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